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UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEVADA

In re:) Case No. 14-10723-ABL
)
Reza Athari and Fataneh R. Athari,) Chapter 11
)
) Hearing Date: October 8, 2014
Debtors.) Hearing Time: 1:30 p.m.
)

**REPLY TO OPPOSITION TO DEBTORS' OBJECTION TO
ALLOWANCE OF PROOF OF CLAIM OF RESORT HOLDINGS 3,
LLC IN EXCESS OF BANKRUPTCY CODE SECTION 502(b)(6) CAP**

TO CREDITOR: RESORT HOLDINGS 3, LLC
c/o Richard L. Doxey, Esq.
Todd L. Moody, Esq.
Hutchison & Steffen, LLC
10080 W. Alta Drive, Suite 200
Las Vegas, Nevada 89145
Attorneys for Resort Holdings 3, LLC

REGARDING CLAIM: Claim No. 9-1, Claim Amount: \$662,529.25

The above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”) in this Chapter 11 case, hereby file their reply (the “**Reply**”) to the opposition (the “**Opposition**”) to the Debtors’ Objection (the “**Objection**”) to Allowance of Proof of Claim of Resort Holdings 3, LLC (“**Resort Holdings**”) in Excess of Bankruptcy Code Section 502(b)(6) Cap. In support of the Reply, the Debtors respectfully state as follows:

Reply

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2 1. In its Opposition, Resort Holdings admits that the amount in its proof of claim
3 no. 9-1 (the “**Claim**”) of \$662,529.25 was not correct. Instead, Resort Holdings now claims
4 that its Claim should be allowed in the amount of \$452,130.34, which consists of \$252,247.01
5 in unpaid rent due and owing as of the petition date, and \$199,883.33 representing the rent
6 reserved under the lease, without acceleration, for one year. See Opposition, p. 4. To support
7 these amounts, Resort Holdings submits the declaration of its representative, Robert Hasman
8 (the “**Hasman Declaration**”).
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12 2. Importantly, however, the Hasman Declaration only provides the amounts
13 claimed to be owed. It does not provide any accounting of the pre-petition rent due and owing,
14 for which months the amounts represent, which amounts are attributable to late fees, penalties
15 and interest, and whether such amounts constituted accelerated amounts due under the leases.
16 Simply put, Resort Holdings needs to provide a full accounting of all pre-petition amounts owed
17 under the leases, as well as an accounting of its calculation of the post-petition rent due for one
18 year.
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21 3. The Ninth Circuit BAP has warned that “a creditor who files a proof of claim
22 that lacks sufficient support under Rule 3001(c) and (f) does so at its own risk. That proof of
23 claim will lack *prima facie* validity, so any objection that raises a legal or factual ground to
24 disallow the claim will likely prevail absent an adequate response by the creditor.” Cambell v.
25 Verizon Wireless S-CA (In re Cambell), 336 B.R. 430, 436 (B.A.P. 9th Cir. 2005); In re All-
26 Am Auxiliary Ass’n, 95 B.R. 540, 545 (Bankr. S.D. Ohio 1989) (“[A] claimant must attach all
27 necessary supporting documents to obtain prima facie validity under Rule 3001(f).”).
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31 4. Here, simply stating that certain amounts are owed is not enough. Accordingly,
32

1 Resort Properties should provide a detailed accounting of all pre-petition and post-petition
2 amounts claimed to be owed.

3
4 **Conclusion**

5 Wherefore, the Debtor respectfully requests that the Court (i) reduce Resort Holdings'
6 Claim as set forth in the Objection, or alternatively, require Resort Holdings to provide an
7 accounting of all amounts claimed to be owed under the leases; and (ii) grant such other relief
8 as the Court deems just and proper.
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10 Dated this 3rd day of October, 2014.

11
12 Respectfully Submitted,

13 /s/Samuel A. Schwartz
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent on October 3, 2014, via the Electronic Court's CM/ECF system to the following:

JONAS V. ANDERSON on behalf of U.S. Trustee U.S. TRUSTEE - LV - 11
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bkc@comptonlaw.org

RICHARD L. DOXEY on behalf of Creditor Resort Holdings 3, LLC
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JOSEPH G WENT on behalf of Creditor MUTUAL OF OMAHA BANK
JGWent@hollandhart.com, algrangaard@hollandhart.com

/s/ Christy Cahall
Christy Cahall